IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5990 OF 2005

Maharashtra General Kamgar Union ....Petitioner

Vs.

M/s. Indofil Chemicals Co. & Ors. ....Respondents

Shri. P.K. Rele and Smt. Jane Cox for the Petitioner
Shri. C.U. Singh and Piyush Shah for the Respondents

WITH

WRIT PETITION NO. 6015 OF 2005

Indofil Chemicals Company, ...Petitioner

Vs.

It's Workmen represented by :
Maharashtra General Kamgar
Union & Ors. ....Respondents

Shri. C.U. Singh & Piyush Shah for the Petitioner
Shri. P.K. Rele for the Respondents

CORAM : P.V. KAKADE, J.

DATE : 17TH JANUARY, 2006

P.C.

1. Heard the learned counsel for both parties.

The petitions appear to be arisen out of common order passed by Member, Industrial Court, Thane dated 3rd March, 2005. In the Reference (IT) No.2 of 2003 the Writ Petition No. 6015 of 2005 is preferred by the Company, whereas, the other petition is preferred by the Respondents in Writ Petition No.5990 of 2005. In view of the certain observations made by the Lower

Court in the course of passing interim order below application Exhibit - 15, it came to be allowed with direction that till the final disposal of the Reference of the first party company and the other party Mr. Mahabal Shetty Contractor was restrained from the terminating the services of the any workman shown in the Annexure - A, which is corrected by the State by corrigendum marking as Annexure -"C". The first party company was also directed to ensure these aforesaid company workers would continue on their present post and as it is, till the Reference was finally decided.

2. It appears that in the order on Exhibit - 15, the workers got interim relief which was replied vide Exhibit - 20 by the Company. The statement of the claim was filed at Exhibit - 17 and the written statement was filed at Exhibit - 19. The interim order supported by affidavit and there was also affidavit in reply. Pending the Reference, the Court was called upon to adjudicate the interim application which it did held that there was prima facie case in favour of Union and irreparable loss would be cause to the Union representing the worker, if the order, as prayed was not passed. It was also held that the balance of convenience tilted in favour of the Union in question and as such the impugned order came to be passed.

3. Without further elaboration, I must note that in the course of the hearing of the petition, it appeares that the issue involved was whether the contract in question was shame and bogus in nature ? The Lower Court appears to have taken the view that such issue was required to be decided in the course of the final hearing of the matter, but prima facie it appeares that the first party was running canteen statutorily and it was bound to run as per the precedents relied on by the Lower Court and prima facie, the persons involved in the matter working in the canteen were required to be protected at the interim stage. On the basis of this approach the interim order came to be passed.

4. In my considered view, if the petition is adjudicated at this stage and if the interim directions came to be vacated, it would amount to adjudication of the dispute finally without giving any opportunity to the concerned parties to effective hearing at the final stage. In view of this position it was suggested to the parties concerned to go to the Lower Court and get the dispute adjudicated finally withim time bound programme to which it appears that the parties are agreeable.

5. In view of this position, it is hereby

directed that the Industrial Court, Thane is permitted to adjudicate the Reference (IT) No.2 of 2003 between the parties finally on merits as early as possible and in any case by the end of March, 2006, after giving opportunity to both the sides to put up their case. At this stage, the learned counsel for the company submitted that the impugned order is blanket order and therefore, it needs reconsideration. In this regard it is clarified that in case any clarification is required or modification on disciplinary grounds found necessary, the parties would be at liberty to move the Industrial Court accordingly.

6. Both the parties to appear before the Industrial Court on 23rd January, 2006.

7. With these directions, both the petitions stand disposed of with no order as to costs.

8. Needless to mention that all issues and contentions of both parties are left open.